

**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

Issuance Date: **August 29, 2007**

LRH-2006-2037-SCR

Stream:

Closing Date: **September 28, 2007**

UN Trib to Big Walnut Creek

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application.

APPLICANT: The Pizzuti Companies
Two Miranova Place, Suite 800
Columbus, Ohio 43215-5098

LOCATION: The proposed project is located in an unnamed tributary to Big Walnut Creek (also known as the Ohio-Erie Canal) at 1912 London-Groveport Road northwest of the Rickenbacker Airport approximately 2 miles southwest of Groveport, Franklin County, Ohio.

DESCRIPTION OF PROPOSED WORK: The applicant proposes to place fill into 1.04 acres of wetland and 200 linear feet of intermittent stream in association with a business development known as the Rickenbacker West facility. Specifically, the development would include the construction of four large warehouses, employee and truck parking, railway access, truck docks, access roads and stormwater facilities. The currently proposed project would be part of continuing development in the area associated with the Creekside Industrial Park, which the applicant has been developing since the early 1990s and is located to the east and northeast of the currently proposed project. In addition, the proposed project would be built in part to supplement the Columbus Regional Airport Authority's plan to develop the area immediately adjacent to Rickenbacker Airport. The project would also be facilitated by the Rickenbacker Intermodal Facility immediately adjacent to the southern side of Rickenbacker Airport (south of the proposed project). A second intermodal facility is currently being evaluated by this office (file 2007-00630-SCR) proposed to be located southwest of the current project area. Wetlands A and B on the attached figure (2 of 4) have previously been determined to be isolated and not waters of the U.S. Therefore impacts to these wetlands do not require a permit from the Corps.

Plans of the proposal are attached to this notice.

ALTERNATIVE ANALYSIS: The project does not require siting within a special aquatic site (in this case a wetland) to fulfill its basic purpose and is considered a non-water dependent activity. The Clean Water Act Section 404(b)(1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve special aquatic sites are presumed to be available unless clearly demonstrated otherwise. Therefore, the applicant is required to provide an alternatives analysis which must overcome that presumption prior to receiving authorization for the placement of fill in the wetlands. The applicant has submitted an alternatives analysis and it is currently being reviewed.

MITIGATION PLAN: The applicant has submitted a conceptual mitigation plan to compensate for the proposed wetland impacts of 1.04 acres and this plan is currently under review. To compensate for the proposed impacts to 200 linear feet of intermittent stream, the applicant has proposed to fund 200 linear feet of stream restoration at Grave Creek on the campus of Ohio State University at Marion, Marion County, Ohio. The applicant is also proposed to preserve 0.96 acre of on-site wetland along with 50' vegetated buffer through a conservation easement. This on-site wetland consists of approximately 2,000 linear feet of the abandoned Ohio-Erie Canal located on the site. This easement would be held by the Land Conservancy of Ohio.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the Ohio Environmental Protection Agency.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined the proposed project would have no effect on any property listed on the Register. A Phase I Archaeological Survey is currently being conducted on the site and this information will be used to determine if the project would have an effect on any property eligible for listing on the National Register. A copy of this public notice will be furnished to the State Historic Preservation Office for their review. Comments concerning archaeological sensitivity of the project area should be based on collected data.

THREATENED & ENDANGERED SPECIES: The project is located within the known or historic range of the following candidate, threatened, or endangered species:

Indiana bat (E)
Scioto madtom (E)
clubshell mussel (E)
northern riffleshell mussel (E)
rayed bean mussel (candidate species)

The Huntington District has determined that the project may affect, but would not be likely to adversely affect the Indiana bat based on the preliminary results of a mist-net survey on the project site. The survey did not find any Indiana bats. The proposed project would have no effect on the Scioto madtom, clubshell mussel, northern riffleshell mussel or the rayed bean mussel as it would not involve impacts to their habitat. All of the above effects were verified by the USFWS in a letter dated July 20, 2007, except for the Indiana bat. This public notice serves as a request to the USFWS for any additional information they may have on whether any federally listed or proposed species may be present in the area which would be affected by the activity. This information will be used to assist the Huntington District in making final effect-determinations pursuant to Section 7(a)(2) of the Federal Endangered Species Act of 1973 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U.S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic

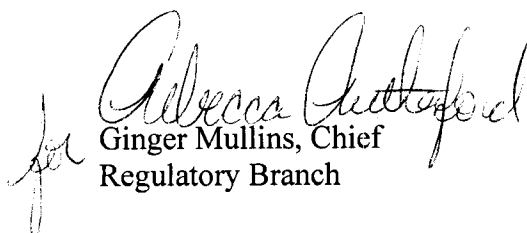
properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

Mr. Jim Spence
North Regulatory Section, CELRH-OR FN
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070.

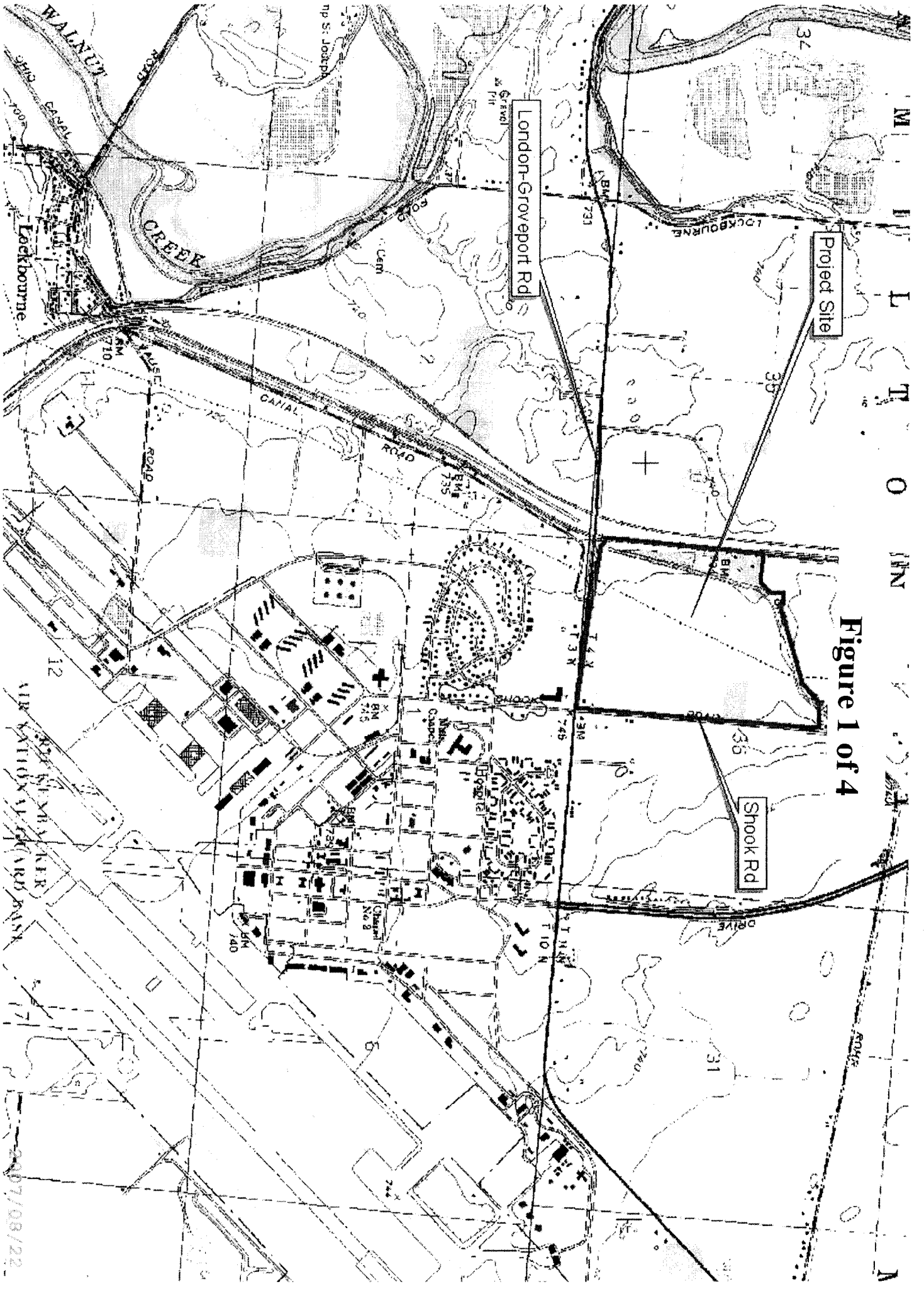
Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Jim Spence of the North Regulatory Section at 304-399-5210.


Ginger Mullins, Chief
Regulatory Branch

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Figure 1 of 4



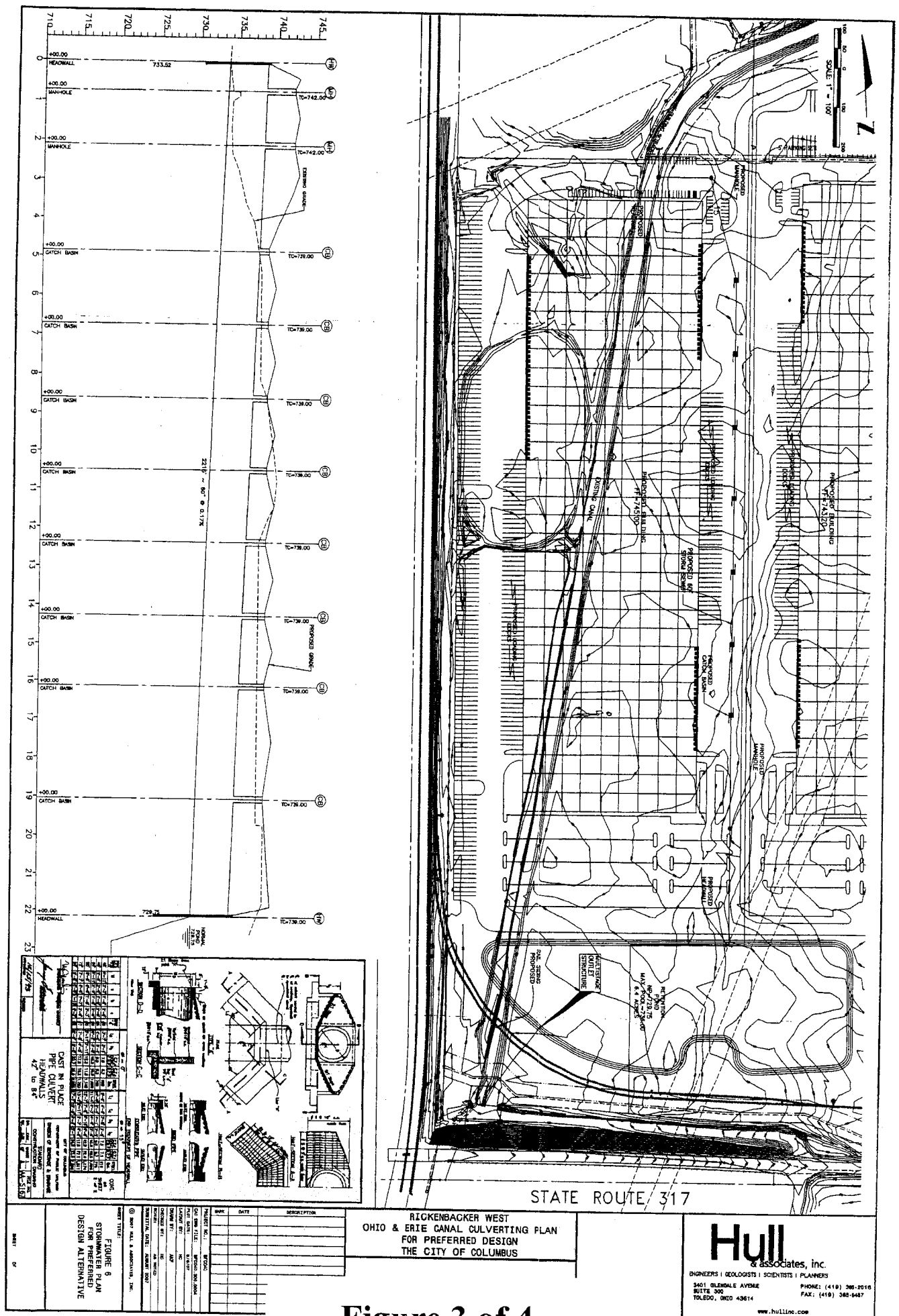


Figure 4 of 4

